

Episode 43

Consequently, on the 12th of Rabi ul-Awwal 1399 AH (1979 CE), a solemn and majestic ceremony for the implementation of these laws was convened in the *Aiwan-e-Sadr* (President House). At the start of this ceremony, Maulana Qari Saeed ur-Rahman (may Allah's mercy be upon him) recited the following Verse in his melodious and moving voice:

ثُمَّ جَعَلْنَاكَ عَلَىٰ شَرِيعَةٍ مِّنَ الْأَمْرِ فَاتَّبِعْهَا وَلَا تَتَّبِعْ أَهْوَاءَ الَّذِينَ لَا يَعْلَمُونَ إِنَّهُمْ لَن يُغْنُوا عَنْكَ مِنَ اللَّهِ شَيْئًا وَإِنَّ الظَّالِمِينَ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ ۗ وَاللَّهُ وَلِيُّ الْمُتَّقِينَ

Then We have put you on a certain way of the Matter (i.e. the religion); so follow it, and do not follow the desires of those who do not know. They will never help you against Allah in the least.

The wrongdoers are friends to one another, and Allah is the friend of the God-fearing. (Al-Jathiyah, 45:18-19)

Thereafter the late President delivered a speech in which he emphasized on the importance of Islamic laws and expressed his intentions regarding their implementation in the future. Among ceremonies attended in the President House, this was the first time where faces of all participants were seen beaming with genuine delight.

Besides laws for Hudood and Zakat, a panel of the Council had also prepared a detailed report on the topic of interest-free banking. However, the Council was still reviewing it, so it was not implemented on this occasion, rather this took some time, about which I will mention later InshaAllah.

How could enemies of Islamic Law be happy with this ceremony? They had already been spreading the propaganda since a long time that implementing Islamic laws is not possible as long as various sects were in existence. Scholars of various schools of thought had already rebutted this propaganda as long back as 1952, when they presented a unanimous twenty-two-point recommendation for the Constitution of Pakistan. It had already been declared in those points that all laws would be made in accordance with the Quran and Sunnah, but with respect to personal laws which are specific to any school of thought (such as Marriage, Divorce, Inheritance, Will, etc.), only that interpretation of the Quran and Sunnah would be applicable to each school

of thought which it considers to be correct. This point is also stated in the Constitution of Pakistan. The obvious meaning of this was that common laws of Pakistan would be applicable to adherents of all schools of thought, while laws for Marriage, Divorce, etc., which are called personal laws, would be created separately for each school of thought. Since Hudood laws do not fall under personal laws, in accordance with this agreed-upon principle, there was no question of making separate Hudood laws for each school of thought. Consequently, when the Council of Islamic Ideology was drafting these laws, the topic of drafting separate laws for each school of thought did not arise. So much so, that it was not even decided for laws to be made according to the Hanafi school of thought, though in view of the majority population and ease of implementation, most of the laws came to be drafted according to the Hanafi school of thought. Nonetheless, in view of necessity and expedience, for certain issues the opinions of other schools of thought were also availed. For example, when cutting a hand was declared to be the punishment for theft based on the Noble Quran, in accordance with the opinion of the majority, the entire hand until the wrist was proposed. At that point, the Shia member of the Council, Mufti Jafar Husain Mujtahid mentioned that according to their school of thought, only the fingers of a thief are to be cut. After a short discussion, he presented his difference of opinion in writing, but in accordance with the above-mentioned unanimously agreed-upon principle, on which thirty-three scholars had signed on the twenty-two-point recommendations, he did not insist much, and the law eventually drafted and implemented was for the thief's hand to be cut.

When implementation of the Hudood laws was announced, a representative from the BBC, Mark Tully (who was famed for being against religious circles), went to Mufti Jafar Husain Mujtahid and asked: "These laws do not take into consideration your school of thought at all. Why did you accept them?" The obvious answer to this was that common laws of the country could not be made separately for each school of thought. However, on this occasion he demanded for Hudood laws to be amended for those people who follow the Shia school of thought. The BBC representative blew this story out of proportion, to the extent that emotional people made it into a matter of ego, and based on this a "*Tahreek-e-Nifaz-e-Fiqh-e-Jafariya*" (Movement for the Implementation of Fiqh al-Jafariya) was launched under the leadership of Mufti Jafar Husain. This group began employing such modes of action for demanding the fulfillment of their requests as

are customarily used in today's times. We discussed this matter with Mufti Jafar Husain in the Council as well as outside, and explained: "This is a matter of principle. If we were to accept making laws based on schools of thought for other than personal laws, Islamic law would be reduced to a joke. And the ultimate result of this would be that the secular circles who are opposed to Islamic laws would acquire a weapon, as a result of which the very implementation of Islamic laws would be jeopardized. Therefore, please do not touch the principle which has been decided upon in the twenty-two points as well as in the Constitution." However, regrettably the respected Mufti did not agree and his Movement continued, to such an extent that at one point, his group surrounded government buildings in Islamabad and staged a *dharna* (sit-in demonstration).

In order to end this *dharna*, few representatives of the government assured them that their demands would be looked into, at which point the *dharna* ended. In the wake of this incident, the Council received a letter from the Ministry of Law in which it was asked to make modifications in the *Hadd* punishment for theft such that a separate punishment for the Shia people is proposed.

We realized the gravity of the situation when we received this letter from the Ministry of Law. In those days, the late Ghulam Ishaq was the Finance Minister but the late President Zia-ul-Haq trusted him much. The Council members had a meeting with him, in which I submitted: "Our disagreement to this recommendation is not due to any sectarian prejudice, rather it is based on the principle that if a precedent is established for making separate laws for each school of thought in public laws, then there will be no end to this, and the drafting and implementation of Islamic laws would become practically impossible. And this will also be contrary to the Constitution of Pakistan." Respected Ghulam Ishaq acknowledged this point in principle and said: "I am aware of all these potential outcomes. However, we cannot think of any other way to resolve the issue that has been raised up."

Despite this turmoil, the Council of Islamic Ideology continued its work. After Hudood, the laws of *Qisas* and *Diyat* were also initially drafted by me and presented to the Council.

This draft was still in its preliminary state and under review when I transferred to the Federal Shariat Court. There, I received the opportunity to serve these laws in a different capacity, details of which I will present when describing the Court-based services InshaAllah.

Besides these, I also drafted and presented an amendment to Family Laws, which the Council had also approved. However, it had not yet been implemented when I moved to the Federal Shariat Court.

The scope of work of the Council of Islamic Ideology was not limited to compiling recommendations regarding laws, rather proposing reforms in the various spheres of life was also in its ambit. And it is obvious that educational reforms top this list. To this end, I also prepared a detailed report regarding the changes needed in Pakistan's system of education. This has been published in my book "*Hamara Ta'leemi Nizam*" (Our System of Education). It was during this time that we had several meetings with the Ministry of Education, and numerous issues came under discussion during those meetings. At that time, I had written a letter to the then-Secretary of the Council respected Muzaffar Ashraf. Since it discusses several important issues, I am reproducing it here:

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Respected and Honourable S.M.A. Ashraf,

Secretary, Council of Islamic Ideology, Islamabad,

Assalamualaikum Wa Rahmatullahi Wa Barakaatuhu,

I received your letter 9 (A) /78 C.I.I / 1827, dated 18 October 1978. I have studied the files of the Ministry of Education that you sent with the letter. I had previously attended the last meeting with the Curriculum Committee of the Ministry of Education as a representative of the Council of Islamic Ideology. In relation to this, my recommendations are as below:

1. The syllabus for Islamic Studies for ninth and tenth grades that has been proposed in the aforementioned files has been prepared on the proposition that in these grades as well,

the syllabus for both Sunni and Shia schools of thought should be completely uniform. However, before expressing any detailed opinions on this proposed syllabus, I want to say something regarding this principle upon which this syllabus has been prepared.

This topic has been debated in the country for the past few years, i.e. whether the educational syllabus for Shia and Sunni students should be uniform or separate. One view opines that in view of national unity, the syllabus should be uniform, whereas another view favours a separate syllabus. After deeply pondering over this matter and exchanging thoughts with scholars of various schools of thought, I have come to the conclusion that the syllabus for Sunni and Shia students should not be entirely uniform, rather a part should be common and another part separate. The reasons for this are as follows:

- A) If the entire syllabus is made uniform, it will mean that none of the schools of thought would be able to provide sufficient knowledge to the students as is necessary for an educated Muslim. As a result, we would not be able to bring up the standard of education in the subject of Islamic Studies to a level which is necessary to fulfill our religious needs. This is because there are such deep differences of opinion with respect to beliefs and religious commandments, and religious solutions to practical problems of life are so different in both schools of thought, that it is difficult to create uniformity between the two. Therefore, in a uniform syllabus, very little knowledge could be provided to students, as otherwise the differed upon issues would have to be touched.
- B) An inevitable result of a common syllabus of Islamic Studies would be that besides a few basic beliefs, virtues of the different forms of worship, and a few social etiquettes, nothing more could be added to the syllabus. For example, while the virtues of prayer would be part of the common syllabus, the method of praying and other commandments related to prayer could not be taught, because both schools of thought differ in these details.

The fact is that the virtues of prayer and fasting and reprehensibility of lying, deception, fraud, etc. are teachings which a Muslim child learns in the cradle of his mother, or at least he should learn. Formal books in the syllabus are not much needed to teach these. It is obvious that Islam is not a religion comprising of a few forms of worship and rituals

or a few moral teachings, rather its commandments and teachings encompass all spheres of life, and in order to make Muslims students realize the greatness of Islam and to inculcate in them religious self-esteem, and also to make them true Muslims, it is indispensable that they should acquire enough knowledge of Islamic teachings related to all spheres of life as to be able to respond to the challenges of the time. And if the principle that no such topic should be brought up before the students which is differed upon by the Shia and Sunni schools of thought is accepted, then achieving the above-mentioned goal will become impossible.

- C) A cursory glance at the proposed syllabus described in the files that the Ministry of Education sent confirms the above-mentioned points. This is because besides basic beliefs, virtues and common moral teachings, it does not contain anything which could provide more detailed guidance regarding how to fulfill the *Huquq Allah* (Rights of Allah) and *Huquq al-Ibad* (Rights of Creation). When I had participated in the meeting and asked as to what kind of details would be taught under the topic of prayer, the reply received was that the virtues and benefits of prayer would be described under this topic. At this I asked: “When and who will teach student how to pray and the detailed commandments related to prayer?” The reply I received was: “They will learn these things at home from their parents or other family members.” I believe that this matter could work the other way round, but if the student can learn about prayer, Zakat, etc. and all the relevant details at home, then there is not much need to take up the trouble of drafting a syllabus and appointing a teacher merely to teach virtues and benefits.

In the meetings that I had attended, the question: “Should the *Khulafa Rashidin* (Rightly-Guided Caliphs) be mentioned in the syllabus?” was quite hotly debated. This lowly one submitted: “In this lowly one’s opinion, a syllabus in which the exemplary era of the *Khulafa Rashidin* is intentionally omitted is not worthy of being called a syllabus of Islamic Studies.” With this, those individuals who were in favour of including the topic of the *Khulafa Rashidin* in the syllabus received support. And eventually, the Committee included this in their list of recommendations. The reason for mentioning this incident is to highlight how far away the principle of avoiding differed upon teachings can take us.

- D) If one compares the detailed recommendations regarding education that the Council of Islamic Ideology has sent to the government, specifically the proposed standard of education for the subject of Islamic Studies for students of Grade nine, with the one under discussion here, one can find a world of a difference between the two. And the only reason for this is that in order to keep the entire syllabus common, every differed-upon topic has been sidestepped.

Therefore, in my opinion, the only solution to all these problems is to keep a part of the syllabus common for students adhering to both schools of thought. This part should only consist of beliefs, virtues, etc. And a second part, in which detailed commandments, beliefs and history should be taught, should be kept separate for both schools of thought. Examination papers should be separate for this second part, and any school in which students of either school of thought are more than twenty percent of the total student population should have a separate teacher assigned to teach Part Two of the syllabus. And if the number of students belonging to any school of thought are less than twenty percent, then a separate teacher is not needed. Instead, students of that school of thought should either take the exam of Part Two based on self-study, or the same teacher should teach both parts.

2) The above was this lowly one's point of view on the issue of common vs separate syllabus, which is supported by many scholars from various schools of thought. As for the recommendations presented by the current Curriculum Committee, my above-mentioned comments are not at all intended to denigrate them, because it was instructed to draft recommendations based on a common syllabus, and in my opinion the efforts they have made within this limited scope are overall not that bad. And if the expected scope of topics of Islamic Studies could not be included in it, then the Committee is excused to a large extent because the basis of a common syllabus greatly limited its scope of work. Nonetheless, even within this limited scope, a few important advices are presented below with the aim that until the ideology of having a shared syllabus is

changed, at least the following additions should definitely be made to it so that the standard of the syllabus could be improved as much as possible.

A) Part one, chapter one should teach about the miraculous nature of the Quran, its importance and the proofs of it being from Allah. Additionally, detailed academic essays should be included which describe how it has been preserved and protected from alteration.

B) With respect to the choice of Hadiths, it seems only those Hadiths have been selected which are available in the books of both schools of thought. Thus, with respect to the virtues of the Quran, only two Hadiths have been cited. However, even in a common syllabus, the principle should be that any Hadith occurring in the *Sihah Sittah* which does not relate to any differed-upon issue should be used, even if those Hadiths are not present in the books of the other school of thought. If Hadiths are selected base on this principle, several more necessary and beneficial Hadiths can be selected from *Mishkat* alone.

C) Part one, chapter two mentions basic principles of Arabic Language, but their standard is quite low. For students of Grades 9 and 10, besides *ism*, *fi'l*, *harf*, *wahid*, *jama'* and *mudhakkar*, *mu'annath*, additionally *mubtada*, *khabar*, *murakkab idaafi* and *murakkab tawseefi*, *faa'il* and *maf'ool* should also be taught.

D) Sections from the Quran have been quoted in Chapter three, in which six Surahs from 'Ammah Juz and various Verses are quoted. In the syllabus which was taught from a long time until a few years ago, fifteen complete Surahs were taught, whereas even then the syllabus was common. Thus, there is a need to add more in the currently proposed syllabus.

E) Part three is related to the Seerah, but only *Mi'raj* (Ascension), *Hijrah* (Migration) and *Khatm-e-Nubuwwah* (Finality of Prophethood) have been emphasized here, whereas in this lowly one's opinion, those aspects of the Seerah should be highlighted more which are related to actions and which provide guidance in the various spheres of life.

F) Part four, chapter four is related to the pillars of Islam. The historical background of these pillars as well as the wisdom and philosophy behind them should also be explained in this chapter.

G) Chapter nine is related to *Huquq al-Ibad* (Rights of the Creation). Here, the rights of brothers and sisters, friends and teachers should also be included. Besides these, the rights of buying and selling, business, economy, and employer and employee should also be added.

H) Chapter ten is titled "*Amr Bil Ma'roof*" (Enjoining Good) whereas no mention of the obligation of *tabligh* is made here, rather it mentions good deeds such as honesty, fulfilling promises, etc. Therefore, this chapter should be named "*Awamir*" (Good Deeds) and a separate sub-chapter under the title of "Obligation of Tabligh" or "*Amr Bil Ma'roof*" should be added to it, wherein relevant Verses from the Quran and Ahadith should be mentioned with their commentaries. In this chapter, the Verses and Hadiths cited under the section of "Status of Women in Islam" are quite wanting. There is need to add more.

I) Similarly, the title of chapter eleven should be changed from "*Nahi Anil Munkar*" (Forbidding Evil) to *Nawahi* (Forbidden Deeds) or *Munkarat* (Evil Deeds), and bribery, grudge and malice, jealousy, selfishness, and greed should also be included in it.

J) Chapter twelve is related to etiquettes of social life. An acute dearth is felt with respect to etiquettes of seeking permission before entering, eating and drinking, walking, etc. Regarding etiquettes of travelling, this chapter only cites "*Bismillahi Majrayha Wa Mursaahaa*" as the supplication for a journey, whereas numerous Verses and Hadiths are available on this topic.

3) Overall, without denigrating the work of the Curriculum Committee, I believe that even within the limitations of a common syllabus, the syllabus falls short of the amount of knowledge that could be included in it. Considering the standard of students of Grade nine and ten, much addition is not only possible in it, rather even necessary, and relevant Verses of the Quran from "*Fehrist Mazameen Quran*" and Hadiths from Mishkat should

be added to the chapters selected for this syllabus, as well as the chapters this lowly one has mentioned, with their commentaries also added from relevant books of Tafsir and Hadith Commentaries.

Wassalam

Muhammad Taqi Usmani

Work on the report for interest-free banking continued in parallel. Alhamdulillah it was our good fortune that after the demise of Hazrat Binnori (may Allah's mercy be upon him), Hazrat Maulana Shamsul Haq Afghani (may Allah's mercy be upon him) was made a member of the Council. Therefore, during this work I continued to be honoured with his companionship and counsels.

Regarding the aforementioned demand of *Tahreek-e-Nifaz-e-Fiqh-e-Jafariya*, from the way their protests were proceeding, it felt that the government was preparing to accept it, and the Council received a written note regarding it as well. When no other way remained despite several attempts, I wrote a detailed letter to the late President Muhammad Zia-ul-Haq and resigned from the Council. Some time after this, the Council's term ended and it disbanded. On the other hand, the late Justice Muhammad Afzal Cheema, with whom Alhamdulillah we had spent a very good time and in the matter of implementing the Shariah, we always found him very sincere, received an offer from the Muslim World League for the position of Secretary General for their office in Pakistan, and thus the position of Chairman of the Council was vacated, and in the new Council that was later formed, Justice Dr Tanzeel ur-Rahman was made Chairman.

While I had already resigned from the Council, it is indicative of President Muhammad Zia-ul-Haq Shaheed's high character that he continued a personal contact with me even after, and would also seek counsel in some matters. The reason why I had resigned from the Council, which I have mentioned above, had also ceased, and the late President requested me to accept membership of the newly formed Council. However, my heart had reservations with respect to joining the Council a second time.

During this time, I received a call from the late President. He said: "My son is going to get married soon. My marriage was conducted by Hazrat Mufti Muhammad Hasan (may Allah's mercy be upon him), and my brother's marriage was conducted by your father Hazrat Mufti Muhammad Shafi (may Allah's mercy be upon him). Both of them were *khulafa* (deputies in *Tasawwuf*) of Hazrat Maulana Ashraf Ali Thanvi (may Allah's mercy be upon him). It is my wish that my son's marriage should also be conducted by a *khalifa* of Hazrat Thanvi (may Allah's mercy be upon him). Hazrat Dr Abdul Hayy Arifi is your *Shaykh* (spiritual mentor). Please request him on my behalf that if it would not trouble him, he could conduct my son's marriage. I do not want to personally request him this because it could put a burden on him. You could ask him frankly. If he agrees, it would be my good fortune, but if it could trouble him, then there is no worry." When I mentioned this to Hazrat, he accepted. When I informed the late President of this by phone, he was quite happy, and said: "Please escort Hazrat by yourself."

Thus, I went to this marriage ceremony together with Hazrat. The late President arranged for Hazrat's accommodation in the old *Aiwan-e-Sadr* (President House) in Rawalpindi, and the marriage ceremony took place at the same place. It was a very simple event. The late President sat very respectfully before Hazrat, with his legs folded underneath his thighs throughout. After the marriage, he said: "Hazrat! I want to request something from you. Maulana Muhammad Taqi Usmani has resigned from the Council of Islamic Ideology. My request is that you should ask him to accept re-joining the Council as a member." Hazrat replied: "How could I ask him to do this when he complains that the recommendations he puts forth in the light of Shariah are not properly implemented?" The late President replied: "I promise you that InshaAllah we will try our best to diligently act upon the Council's recommendations. However, sometimes some extenuating circumstances arise due to which their implementation gets delayed." Hazrat said: "If any difficulty arises which makes them difficult to practically implement them, you should inform the Council about this, and the Council should carefully consider those difficulties and propose a solution. However, there is no scope for ignoring the verdicts that the noble scholars issue in the light of the Quran and Sunnah." He continued conversing with Hazrat on this topic for quite some time, and in the end Hazrat beckoned me to accept membership of the Council once again.

Anyway! At the end of this conversation, Hazrat promised the respected President. On the other hand, I kept in touch with Hazrat Maulana Sayyid Abul Hasan Ali Nadvi (may Allah's mercy be upon him) through correspondence, and would also seek his counsel in matters pertaining to the Council. On this occasion, he wrote in a letter:

Beloved and honourable! May your legacy continue increasing,

Assalamu Alaikum Wa Rahmatullahi Wa Barakaatuhu

Your letter dated 17 Jamadi ath-Thania 1400 AH was a source of pride and joy. By trusting me on the important matter, the distinctiveness and trust that you have expressed is a source of happiness as well as embarrassment. Your letter and its contents are so important that if travel were easy, and the restrictions in place did not exist, there was a possibility I would have personally come to you in Karachi and we would have analyzed all aspects of this matter together and exchanged our thoughts over multiple sittings. However, regrettably I am not in a condition to undertake a cross-border journey. I was informed of your intention of visiting Rae Bareilly. I was quite pleased that you would be arriving there. However, I later learned of the extenuating circumstances, more details of which I learned through the letter. Had I learned of these circumstances earlier, I may perhaps have myself visited you from Lucknow. However, by the time I came to know of the situation, you had already departed. Your impressions that you have penned regarding Darul Uloom are a source of strength and moral support for us.

Regarding the matter at hand, I cannot express my opinion in detail. If I find someone travelling, I may perhaps be able to write in more detail. At this moment, I would like to write that you should not leave your current responsibilities at any cost. Your participation will be a means of great goodness and blessings, and will help maintain equilibrium and balance. Do not at all hesitate in being as close as possible to the focal point of this work and being part of its discussions. I have observed numerous organizations, from Ribat up to Rabitah. Among their responsible personalities, none was seen as true a Muslim from inside as the above-mentioned (despite all his weaknesses and faults). I desire for the scholars, especially yourself, to play such a role in this respect as "Rajaa bin Haywa" played in the court of Abdul Malik, as a result of which

Muslims were blessed with a rightly-guided Caliph in the form of Umar bin Abdul Aziz. Or at least the role that Hazrat Khwaja Ubaydullah Ahrar played during his era and governance, which Hazrat Mujaddid Alf Thani has mentioned several times in his letters:

”من اگر شیخی کنم، بیچ شیخ در دنیا مریدے نیاید، لکن مرا کارے دیگر فرموده اند“

Thereafter Hazrat Mujaddid explains this task, which was to meet those in power and develop close relations with them to be able to work towards the implementation of the laws of Shariah and eradication of *bid'aat* (religious innovations) and other evils. As for the work of drafting and writing that you wish to perform, it is extremely important and you should take out time for it. I have reached the conclusion from day one that if this knowledge is not compiled according to the current times, it is feared that this experiment may fail. For this, you should take out maximum time from your duties of management of Darul Uloom and Editorship of Al-Balagh, and should delegate these duties to some other trustworthy individuals. You should see how much you can cope with the translation of Mariful Quran, etc. May Allah Most High put *barakah* in your time. You should delegate the tasks of teaching and Fatwa to others as well. I would have advised to relieve yourself from the responsibilities of the Council. However, firstly, I cannot see any replacement for you. Secondly, your being a member will help you in your other works as well, and this kind of membership will be beneficial for doing work in this country.

I hope this letter will at least prevent you from making any hasty decision. If it succeeds in accomplishing this much, it will be a big service in itself. At the same time, you should also perform Istikharah continuously for one week, and thereafter see what reveals itself from the curtains of the Unseen. May Allah make this letter reach you. Please do acknowledge its receipt.

Wassalam,

Sincerely,

Abul Hasan Ali, 23 May 1980

Anyway! Due to these reasons, I re-joined the Council. After re-joining, I tried to complete the works I had left incomplete, such as the laws of Qisaas and Diyat, and also prepared a draft Amendment to Family Laws, and participated in finalizing the report on interest-free banking.